
Appeal Decision

Site visit made on 13 June 2017

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 July 2017

Appeal Ref: APP/D3830/W/16/3166114

The Oak Inn, Street Lane, Ardingly, Haywards Heath RH17 6UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Wellington Pub Company against the decision of Mid Sussex District Council.
 - The application Ref DM/16/1483, dated 30 March 2016, was refused by notice dated 17 October 2016.
 - The development proposed is the conversion of the Oak Inn public house to one residential house, and the redevelopment of the current public house car park to provide one 4 bedroom dwelling with associated car parking and landscaping.
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Decision

1. The appeal is allowed and permission is granted for the conversion of the Oak Inn public house to one residential house, and the redevelopment of the current public house car park to provide one 4 bedroom dwelling with associated car parking and landscaping at The Oak Inn, Street Lane, Ardingly, Haywards Heath RH17 6UA, in accordance with the terms of the application, Ref DM/16/1483, dated 30 March 2016, subject to the attached schedule of conditions.

Preliminary Matter

2. The proposal involves the loss of the Oak Inn public house as a community facility. However, there are two other public houses in the village and a viability report, verified by an independent consultant, has demonstrated that the business is no longer economically sustainable. The Council accordingly accept its change of use to residential and indeed as a Grade II listed building consent has already been granted for the conversion works. This appeal therefore only relates to the new build element of the scheme.

Main Issues

3. The main issues are:
 - the effect of the new 4 bedroom dwelling and car barns on the character and appearance of the Ardingly Conservation Area (CA) and the setting of the Grade II listed Oak Inn and Brickyard Cottages; and
 - whether the proposal would make adequate provision for habitat mitigation to offset any impact on the Ashdown Forest Special Protection Area/Special Area of Conservation (the Ashdown Forest SPA/SAC).

Reasons

Character and appearance

4. The proposal is for the conversion of the Grade II listed Oak Inn on the south western side of Street Lane into a large five bedroom dwelling and the redevelopment of the car park with a four bedroom house. A car barn would also be provided for each property. The site lies within the Ardingly CA which incorporates the appeal site, some woodland to the west, a pair of Grade II listed cottages to the east and an open space on the opposite side of the road. This part of the designated CA includes the village High Street to the east, and is characterised by a mixture of building types and styles built in a range of vernacular materials including brick, tile hanging, chimneys and tile roofs.
5. There is no dispute that the conversion of the 17th century Oak Inn would provide an attractive residential property at one end of the site with a long low profile facing Street Lane. In order to provide an appropriate setting for this listed building a substantial curtilage is required on its eastern side leaving the parking area at the other end of the site available for development purposes. The proposed new house would consequently be sited alongside Brickyard Cottages, the adjacent pair of Grade II listed properties, although there is a flat roof single storey garage to the side of the nearest cottage.
6. Brickyard Cottages are of two storeys but quite modest in appearance, with the ground floor below road level, a low eaves line and simple tiled pitched roof facing the road. They are of brickwork with tile hanging at first floor level. Situated at a higher level, the new house would inevitably have a higher ridge, albeit about the same as the converted Oak Inn, but would only have slightly higher eaves due to the use of two front facing dormers to serve the front bedrooms. The house, although larger than the two listed cottages alongside, would have a cottage style appearance, being one and a half storeys in height with an attractive front porch. The intervening garage would visually separate the buildings, and it would also be built of suitable materials, with contrasting brick detailing around the window openings and a plain tiled roof.
7. The proposal would therefore add a further individual dwelling to the existing variety of the CA. It would be well designed and reflect nearby dwellings such as one in the adjacent cul-de-sac and one next to the nearby café. Although a single dwelling and somewhat larger than the adjacent cottages there would be an appreciable separation distance and the house would be set back. It would not therefore dominate the cottages when seen from the east along Street Lane nor the much wider and more important Oak Inn building behind.
8. The location of the proposed house would leave a significant gap between it and the converted Oak Inn. The car barn to the side of the new house would be well set back, minimising its impact in the street scene, and that of the converted Oak Inn set back even further to give the attractive half hipped gable end suitable prominence. This would result in a wide gap in the built up frontage, unlike much of the CA which generally has more built up frontages. However, the Oak Inn appears historically to have occupied a large site as Street Lane leaves the village High Street and the listed building warrants a good sized open setting to reflect its significance. Although car barns are not characteristic of the CA they would be discreetly located and constructed of good quality materials with timber boarding and tiled roofs.

9. The Council, reflecting the views of the Parish Council, favour a more dense form of development with a pair of cottages or even a short terrace filling more of the frontage. Whilst this may reflect some other parts of the CA there is no evidence of an historic built up frontage here. In the absence of detailed designs or even a sketch scheme the impact of any such proposal is unknown and with its additional car parking might have a harmful effect on the setting of the adjacent listed buildings and the CA. Consequently, the reason for refusal referring to the scheme making inefficient use of the site is speculative. In any event, the current application must be determined on its own merits.
10. The proposal would therefore both safeguard the future of the Grade II listed Oak Inn and provide for an attractive redevelopment of the currently untidy and disused public house car park.
11. For these reasons the proposal would preserve the setting of both the Grade II listed Oak Inn and Brickyard Cottages and would both preserve and enhance the character and appearance of the Ardingly CA. It would therefore comply with Policies B1, H3 and B12 of the Mid Sussex Local Plan 2004 which require development to demonstrate a sensitive approach by respecting the character and form of the locality, especially to neighbouring buildings, seek to preserve or enhance the character and appearance of Conservation Areas and safeguard the setting of any listed buildings.
12. The proposal would also comply with Policies ARD5 and ARD9 of the Ardingly Neighbourhood Plan 2015 which require development to be sympathetic to the character and scale of surrounding buildings and to conserve or enhance the special quality and distinctive character of Ardingly.
13. These policies reflect the statutory requirements in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which would be satisfied for the same reasons.

The Ashdown Forest SPA/SAC

14. The appeal site lies within 7 km of the Ashdown Forest SPA/SAC which has been identified for its importance as habitat supporting certain protected species. Within the 7 km zone of influence a Habitats Regulations Assessment has concluded that new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/SAC unless it is properly mitigated. Two parts to this mitigation have now been identified, an interim Strategic Access Management and Monitoring (SAMM) Strategy, and the provision of Suitable Alternative Natural Greenspace (SANG) to divert visitor pressure away from the Forest.
15. The SAMM strategy includes measures to manage visitor behaviour and species monitoring, and the Council is seeking £3,140 from the appellant as a contribution towards this, based on the development proposed. In the case of SANG, the Council has developed a strategy for alternative visitor destinations and is either seeking £2,033 from the appellant towards this, again based on the proposal, or alternatively the provision of a bespoke SANG.
16. A signed and dated unilateral undertaking has been submitted offering the SAMM contribution should it be necessary and legitimate in this case. The contribution would not fund infrastructure and the Council has not raised any concerns that the terms are unacceptable. Without mitigation the visits

generated by the occupiers of the development in this location would be likely to have a detrimental impact on the Ashdown Forest SPA/SAC. The contribution would therefore be necessary, directly related to the development and fair and reasonable in scale and kind, the three tests in the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the National Planning Policy Framework (NPPF).

17. In relation to SANG, this would be secured by a negatively worded condition requiring the submission of a scheme either for a financial contribution towards the provision of a SANG by the local planning authority or alternatively the provision of a bespoke SANG. As this mitigation is also required to avoid a detrimental impact on the Ashdown Forest SPA/SAC, such a condition is necessary, relevant to the development and reasonable in all other respects.
18. The condition appears to require the parties to enter into a further agreement before development can proceed, contrary to Planning Practice Guidance (PPG)¹, but the appellant does not dispute the condition and the tests of necessity and transparency are met. In this case permission for the development would help reduce the shortage of housing land in the district, ensure the preservation of a disused listed building and enable a proposal that accords with the development plan to go ahead without delay, all policy objectives of the NPPF. Whilst PPG is a material consideration, in these exceptional circumstances a negatively worded condition is appropriate.
19. For these reasons the unilateral undertaking and condition would enable the proposal to make adequate provision for habitat mitigation to offset the anticipated impact of the proposal on the Ashdown Forest SPA/SAC. This would comply with Policy DP15 of the emerging Mid Sussex District Plan which requires residential development within 7 km of the SPA/SAC to contribute towards the provision of SANG and the SAMM strategy².

Other matters

20. Whilst there may be an objective need for smaller dwelling types in the village, there is no policy that specifically prioritises their provision. In any event, it has not been demonstrated that a scheme for semi-detached or terraced houses would be suitable on this particular site.
21. All the other objections raised against the proposal have been carefully considered, many of which can be addressed by attaching conditions to any permission. These include the need to protect the ecological interests in and around the site and nearby trees, also to control surface water run-off. Disruption during the construction period would only be temporary. The privacy and other amenities of neighbouring occupiers could be adequately protected, and any implications for the structural stability of boundary walls or nearby buildings are a private matter.
22. The Council has suggested a number of conditions should the appeal be allowed and these have been assessed against the relevant tests, making minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions to control the materials to be used, construction details, proposed site levels and the form of boundary screening

¹ Paragraph 10 Reference ID: 21a-010-20140306

² Policy C5 of the Mid Sussex Local Plan 2004 mentioned in the decision notice is less specific.

are necessary to ensure the development has a satisfactory appearance given its location in a CA. Details of proposed landscaping and its maintenance are necessary in the interests of visual amenity, details of surface water drainage to protect against flooding and pollution and a method statement to safeguard protected species.

23. A condition to ensure certain windows are obscure glazed is necessary to protect privacy and further conditions to ensure the access and car barns are provided in the interests of highway safety. Cycle parking is necessary to encourage sustainable transport and the re-routing of overhead lines and bin storage to ensure a satisfactory development. A condition to ensure appropriate mitigation for the Ashdown Forest SPA/SAC is necessary as explained above and a further condition to ensure the works to the Oak Inn are completed. Finally, conditions are necessary to ensure the satisfactory remediation of any contamination.

Conclusion

24. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 6467/00, 6467/17 rev A, 6467/16 rev B, 6467/15 rev B, 6467/14, 6467/13 rev A, 6467/12 rev A, 6467/11 rev B, 6467/10 rev A, 6467/9, 160021 Topographical Survey, Elevations & Measured Building (x2).
- 3) Details, including samples, of all facing, windows, doors, rainwater goods and roofing materials for the new property and for the car barns shall be submitted to and approved in writing by the Local Planning Authority prior to work commencing in respect of these parts of the development. The development shall not be carried out otherwise than in accordance with the approved details.
- 4) Detailed drawings, including sections, at an appropriate large scale of all external and internal doors, and new windows, to include depth of reveal, and annotated to show materials and finishes for the new property shall be submitted to and approved in writing by the Local Planning Authority prior to work commencing in respect of this part of the development. The development shall not be carried out otherwise than in accordance with the approved details.
- 5) Detailed drawings, at an appropriate large scale of the porch on the new build property, indicating the proposed materials and finishes, shall be submitted to and approved in writing by the Local Planning Authority prior to work commencing in respect of this part of the development. The development shall not be carried out otherwise than in accordance with the approved details.
- 6) The roof light in the front elevation of the new dwelling shall be a metal framed, flush fitting "Conservation" style roof light.
- 7) Notwithstanding any details shown on the submitted plans, no development in connection with the new build house shall take place until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. Development of the new house shall not be implemented otherwise than in accordance with the approved details.
- 8) Details, including elevations, materials and finishes of the proposed boundary treatments, including the front, side and rear boundaries and the subdividing fence between The Oak Inn building and the new house shall be submitted to and approved in writing by the Local Planning Authority prior to work commencing in respect of this part of the development. The development shall not be first occupied until the boundary treatments have been implemented out in accordance with the approved details.
- 9) No development shall take place until a scheme including full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These shall include details of all existing trees and hedgerows on the land, together with

those to be retained and measures for their protection in the course of development, and these measures shall be carried out as approved.

- 10) The hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of any part of the development or in accordance with the scheme agreed with the Local Planning Authority. Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
- 11) Prior to first occupation of the new dwelling hereby permitted the three windows on the south eastern side elevation and the first floor ensuite window on the south western elevation shall be glazed with obscured glass and retained as such at all times thereafter.
- 12) No development, including demolition works, shall take place until a method statement setting out measures to avoid risks to protected species and to ensure no net loss of suitable habitat has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full unless otherwise agreed in writing by the Local Planning Authority. The method statement shall cover measures to minimise any residual risks to bats during the building works and to compensate for the loss of suitable roost features; measures to minimise risk of harm to great crested newts during clearance of overgrown garden areas and clearance of any rubbish piles that might be used as refugia; and measures to avoid risks to nesting birds. If there is a delay greater than 18 months between the date of consent and the date that works are to commence, the method statement shall be supported by an updated bat survey report that accords with best practice guidelines current at the time of writing.
- 13) No development shall take place until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all drainage works have been carried out in accordance with the approved details.
- 14) No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.
- 15) No part of the development shall be first occupied until the car barns have been constructed in accordance with the plans and details to be submitted to and approved in writing by the Local Planning Authority. The car barns should meet the required dimensions of 6m by 6m and shall thereafter be retained at all times for their designated use.
- 16) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.

- 17) No development shall take place until details of the intended re-routing of overhead lines, which run across the site and along the site boundary with Street Lane, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved re-routing details.
- 18) No part of the development shall be first occupied until sufficient bin store arrangements have been provided on the site in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.
- 19) No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be first occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.
- 20) The new house hereby permitted shall not be first occupied until such time as the proposed works to The Oak Inn Listed Building, as detailed in the Heritage Impact Assessment dated March 2016 by Foundations Archaeology, as submitted with the application, to allow for the change of use to residential, have been completed.
- 21) No development shall take place until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.

- 22) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out giving the Local Planning Authority two weeks notice of its commencement and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the Local Planning Authority before the development is first occupied.
- 23) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall then be carried out before the development is resumed or continued.
- 24) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 14 days of the report being completed for approval in writing. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the Local Planning Authority within a further 14 days for approval in writing. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.